

FISCAL ANALYSIS MEMORANDUM

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DATE: July 23, 2013
TO: Senate Finance Chairs
FROM: Jennifer Hoffmann, Fiscal Research Division
RE: House Bill 135 - Adjust Landfill Permit Fee Timing.

FISCAL IMPACT					
	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> No Estimate Available		
State Impact	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
Special Fund Revenues:	270,000	270,000	270,000	270,000	270,000
Special Fund Expenditures:					
State Positions:					
NET STATE IMPACT	\$270,000	\$270,000	\$270,000	\$270,000	\$270,000
Local Impact					
Revenues:					
Expenditures:					
NET LOCAL IMPACT	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Environment and Natural Resources, Division of Waste Management					
EFFECTIVE DATE: When the act becomes law.					
TECHNICAL CONSIDERATIONS: None					

BILL SUMMARY: The Proposed Committee Substitute (PCS) for House Bill 135 makes adjustments to the fee schedule for permits for sanitary landfills and transfer stations to reflect the extension of the duration of these permits as directed by the Regulatory Reform Act of 2012 (S.L. 2012-187). The PCS also makes conforming changes to add language to the statutes specifying that permits for sanitary landfills and transfer stations may be issued for a design and operation phase of ten years with a limited review five years after the date of issuance.

ASSUMPTIONS AND METHODOLOGY:

Background: The Regulatory Reform Act of 2012 required the Commission of Public Health to adopt rules that would allow the applicants for permits for sanitary landfills and transfer stations the option to apply for a new permit to construct and operate a facility for a period of ten years,

with a limited review of the permit five years after issuance. At the end of the first five years, facilities issued new 10-year permits are required to submit a “*permit modification*” application. At the end of the first ten years, facility operators are required to submit a 10-year “*amendment*.” At the end of year five of the 10-year amendment, a “*permit modification*” is again required. Any time a facility operator makes a significant change to a 10-year permit, a “*major modification*” permit and associated fees are required.

To conform with the legislation that was enacted in 2012 and the subsequent rules, the PCS adjusts the current statutory fee schedule for sanitary landfills and transfer stations by 1) adding fees for new permits of 10-year duration, 2) adding fees for 10-year permit amendments, and 3) adding new fees for a 10-year “major modification” (see Table 1 at end of memo).

Prior to the legislation enacted in 2012, the duration of new permits for sanitary landfills and transfer stations was five years. This 5-year permit option is still available and the existing fee structure for five-year permits has not changed. (see Table 1 at end of the memo).

The PCS sets the fee structure for new 10-year permits such that a facility would pay the same amount in fees over a 10-year period regardless of the chosen permit option (five or 10-years).

The fees collected by the Division of Waste Management are deposited into a special fund and are used to support the staff in the Division’s Solid Waste Management Section.

Assumptions:

1. **The option of obtaining a 10-year permit versus a 5-year permit will not affect the number facilities seeking permits.** The Division of Waste Management (DWM) projects the number of sanitary landfills to increase by less than five facilities over the next five years and the number of transfer stations to increase by approximately 10 facilities within the same timeframe. This increase is not due to the option of obtaining a 10-year permit, or its associated fees.
2. **The services provided by the DWM will not change.** There is no expected change in the current type of service provided to applicants of 10-year permits for sanitary landfills and transfer stations. The same type of permit review will be conducted in accordance with the statutory and rule requirements for facilities that seek either a five or 10-year permit.
3. **DWM estimates that the amount of time it will take to review a 10-year permit will be approximately 30 percent more than the current five-year permits.** This initial increase in the review time however, is offset by a five-year review of a 10-year permit that is projected to take 30 percent less time than a conventional five-year permit renewal (amendment). According to DWM, the projected workload can be accommodated within the agency’s existing staff levels but the permit fees need to be adjusted in order to preserve the current program budget amounts.
4. Sanitary landfill and transfer station operators have the choice of selecting a 5-year or 10-year permit term; however, **DWM projects that 75 percent of the facilities will choose permits of 10-year duration.** This assumption is based on the fact that private solid waste companies initiated the 2012 legislation to lengthen the permit term for sanitary landfills and transfer stations. In addition, a 10-year permit offers potential savings to facility owners because the necessary engineering and hydrogeological work must only be completed

once for a permit of 10-year duration versus repeating the work for two five-year permits. A 10-year permit also allows facilities the flexibility to construct individual landfill phases as needed by volume instead of by a particular date.

Fee Structure: The new fee structure for sanitary landfills and transfer stations is illustrated in Table 1. While the fee for a 10-year permit is higher than for a 5-year permit, the new fees are structured so that the total cost of a 10-year permit and its required 5-year modification is the same as the total cost of a 5-year permit and its required 5-year amendment over a ten-year period of time. As a result, the **overall amount of permit fee revenue collected from sanitary landfills and transfer stations will not change under the proposed permit fee adjustments, but the timing of payments will be different.** Permit fee revenue will increase during the first five years and will decrease on an equal basis during the second five years.

Fiscal Impact: The amount of additional revenue collected by the Division of Waste Management from proposed fee increases is approximately \$270,000 each year for the next five years with a corresponding reduction in fees collected in the subsequent five years. This estimate is based on the following information:

1. The Division of Waste Management currently collects an average of \$400,000 in permit fees from sanitary landfills and transfers stations.
2. The assumption that 75% of the facilities will switch to the new 10-year permit option. No new facilities have been permitted in recent years, so the switch to the 10-year option would require a 10-year amendment.
3. The 10-year permit amendment fees are about 90% higher than the five-year permit amendments.

Using this information, the annual amount of additional revenue from the proposed fee increase for next five years is calculated to be $(\$400,000 \times 75\%) \times (90\%) = \$270,000$. There is an equal reduction in fee revenue for the subsequent five years due to small fees associated with required 5-year modification permit. Over the ten year period the amount of fees collected by the division does not change, just the timing of revenue collection.

SOURCES OF DATA: Department of Environment and Natural Resources, Division of Waste Management

TECHNICAL CONSIDERATIONS:

Table 1: HB 135 Proposed 10-year Fees Compared to Current 5-year Fees					
Facility Type & Size	Permit Type	Current 5-year Permit Fees	Years Covered	New 10-year Permit Fees	Permit Type
Municipal Solid Waste Landfill Facility<100,000 tons/yr					
	New	\$25,000	year 1	\$38,500	New
	Amendment (5-years)	\$15,000	year 5	\$1,500	Modification (5-years)
	Amendment (5-years)	\$15,000	year 10	\$28,500	Amendment (10- years)
	Amendment (5-years)	\$15,000	year 15	\$1,500	Modification (5-years)
			anytime	\$7,500	10-year Major Modification
Municipal Solid Waste Landfill Facility>100,000 tons/yr					
	New	\$50,000	year 1	\$77,000	New
	Amendment (5-years)	\$30,000	year 5	\$3,000	Modification (5-years)
	Amendment (5-years)	\$30,000	year 10	\$57,000	Amendment (10- years)
	Amendment (5-years)	\$30,000	year 15	\$3,000	Modification (5-years)
			anytime	\$15,000	10-year Major Modification
Construction and Demolition Landfill Facility<100,000 tons/yr					
	New	\$15,000	year 1	\$22,500	New
	Amendment (5-years)	\$9,000	year 5	\$1,500	Modification (5-years)
	Amendment (5-years)	\$9,000	year 10	\$16,500	Amendment (10- years)
	Amendment (5-years)	\$9,000	year 15	\$1,500	Modification (5-years)
			anytime	\$4,500	10-year Major Modification
Construction and Demolition Landfill Facility>100,000 tons/yr					
	New	\$30,000	year 1	\$46,000	New
	Amendment (5-years)	\$18,500	year 5	\$2,500	Modification (5-years)
	Amendment (5-years)	\$18,500	year 10	\$34,500	Amendment (10- years)
	Amendment (5-years)	\$18,500	year 15	\$2,500	Modification (5-years)
			anytime	\$9,250	10-year Major Modification

Table 1: HB 135 Proposed 10-year Fees Compared to Current 5-year Fees					
Facility Type & Size	Permit Type	Current 5-year Permit Fees	Years Covered	New 10-year Permit Fees	Permit Type
Industrial Landfill <100,000 tons/yr					
	New	\$15,000	year 1	\$22,500	New
	Amendment (5-years)	\$9,000	year 5	\$1,500	Modification (5-years)
	Amendment (5-years)	\$9,000	year 10	\$16,500	Amendment (10- years)
	Amendment (5-years)	\$9,000	year 15	\$1,500	Modification (5-years)
			anytime	\$4,500	10-year Major Modification
Industrial Landfill>100,000 tons/yr					
	New	\$30,000	year 1	\$46,000	New
	Amendment (5-years)	\$18,500	year 5	\$2,500	Modification (5-years)
	Amendment (5-years)	\$18,500	year 10	\$34,500	Amendment (10- years)
	Amendment (5-years)	\$18,500	year 15	\$2,500	Modification (5-years)
			anytime	\$9,250	10-year Major Modification
Tire Monofill					
	New	\$1,750	year 1	\$2,500	New
	Amendment (5-years)	\$1,250	year 5	\$500	Modification (5-years)
	Amendment (5-years)	\$1,250	year 10	\$2,000	Amendment (10- years)
	Amendment (5-years)	\$1,250	year 15	\$500	Modification (5-years)
			anytime	\$625	10-year Major Modification
Transfer Station					
	New	\$5,000	year 1	\$7,500	New
	Amendment (5-years)	\$3,000	year 5	\$500	Modification (5-years)
	Amendment (5-years)	\$3,000	year 10	\$5,500	Amendment (10- years)
	Amendment (5-years)	\$3,000	year 15	\$500	Modification (5-years)
			anytime	\$1,500	10-year Major Modification

